

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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JH

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/629,547	04/09/96	TAKAHASHI	T ATS-032-CON/

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PM82/0905

EXAMINER

LUONG, V

ART UNIT

PAPER NUMBER

3682

DATE MAILED:

09/05/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Communication Re: Appeal	Application No.	Applicant(s)
	08/629,547	Takahashi et al.
Examiner	Art Unit	
Luong	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. The Notice of Appeal filed on 8/13/01 is not acceptable because:
 - (a) it was not timely filed.
 - (b) the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
 - (c) the appeal fee received on _____ was not timely filed.
 - (d) the submitted fee of \$ _____ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$ _____.
 - (e) the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
 - (f) a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. The appeal brief filed on _____ is NOT acceptable for the reason(s) indicated below:
 - (a) the brief and/or brief fee is untimely. See 37 CFR 1.192.
 - (b) the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
 - (c) the submitted brief fee of \$ _____ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$ _____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).

3. The appeal in this application is DISMISSED because:
 - (a) the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
 - (b) the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
 - (c) Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
 - (d) other:

4. Because of the dismissal of the appeal, this application:
 - (a) is abandoned because there are no allowed claims.
 - (b) is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
 - (c) is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.



LUONG
PRIMARY EXAMINER
ART UNIT 3682

Art Unit: 3682

1. The notice of appeal filed on August 13, 2001 is not acceptable because there has been no second or final rejection in this application, as required under 37 CFR 1.191(a).

Applicant contended that claims 16, 28, 31, and 43-68 have been finally rejected in the Office action on February 24, 2000. However, on October 3, 2000, applicant filed a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on the parent Application No. 08/629,547, and canceled claims 16, 28, 31, and 43-68. Therefore, these claims 16, 28, 31, and 43-68 have not been finally rejected *in the CPA* or twice rejected as required under 37 CFR 1.191(a). In addition, contrary to applicant's contention, the new claims 113-165 do not correspond to the previously canceled claims 16, 28, 31 and 43-68. For example: (a) new claim 113 is rewritten to combine claims 16 and 43, therefore, the scope of new claim 113 is different from the one of claim 16; (b) new claim 128 is rewritten to combine claims 31 and 47, therefore, the scope of new claim 128 is different from the one of claim 31; and (c) new claims 164 and 165 are rewritten based on method claims 87 and 97. The method claims 87 and 97 (or claims 164 and 165) have not been rejected twice or finally rejected as required under 37 CFR 1.191(a).

2. The Amendment filed on August 13, 2001 (Paper No. 48) has been entered. A final rejection in the instant CPA will be forwarded in due course.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Luong whose telephone number is (703) 308-3221. The examiner can normally be reached on Monday-Thursday from 7:30 AM EST to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. The fax phone number for this Group is (703) 305-7687. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Luong
September 4, 2001


Vinh T. Luong
Primary Examiner